IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO.15/2002

1. State of Goa through
the Chief Secretary,
Secretariat, Panaji, Goa

2. Secretary, Public Works Department,
Secretariat,
Panaji, Goa

3. Executive Engineer,
Works Division XVIII (R & B),
Public Works Department,
Ponda, Goa. ..... Applicants.

V/s.

1. Shri Vaman Krishna Khedekar,
major in age, residing at
"D" type quarters,
Industrial Training Institute,
Farmagudi, Ponda, Goa.

2. Union of India through the Secretary,
Home Ministry, New Delhi.

3. Mr. Haji T.D. Abdulla,
major, P.W.D. Contractor,
Mulla Mansion, Ponda, Goa. ..... Respondents.

Mr. M. D. Salkar, Addl. Govt. Advocate for the applicants.

Mr. E. P. Badrinarayanan, Central Govt. Standing Counsel for respondent No.2.

CORAM : P.V. KAKADE, J.

DATE : 14TH SEPTEMBER, 2006.

ORAL JUDGMENT :

The applicants have preferred this revision application against the Order passed by the Civil Judge, Senior Division, Ponda, dated 25th June, 2001, holding that the Civil Court had jurisdiction to entertain the suit for compensation consequent upon the land acquisition proceedings initiated and completed on behalf of the respondent-State as well as the Union of India.

2. The respondent-plaintiff instituted the suit against the defendant-State for damages and compensation in respect of the property known as “PALWADYA POIKIM TUKDO” or “BARA ZONAKODIL” bearing Survey No. 118/4 in the record of rights of Village Savoi Verem, Ponda Taluka admeasuring 21,600 sq. metres which consisted of cashew trees, coconut trees, banana trees and other fruit bearing trees and forest trees. The defendant-State had taken a strong objection that the suit of the plaintiff was not maintainable as contemplated under Section 18 of the Land Acquisition Act and the subject-matter of compensation was also the subject-matter before the Land Acquisition Officer and hence, the suit was not maintainable.

3. After hearing both the parties, the learned trial Judge came to the conclusion that the suit was maintainable in the Civil Court and, as such, passed the order in answer to the issue raised in that regard. Hence, the present revision petition.

4. None appears for the respondents No.1 and 3. Mr. Badrinarayanan appears on behalf of the respondent No.2. Heard learned Counsel for the State as well as Union of India, who sought to place reliance on various rulings of this Court as well as that of the Apex Court. Without further elaboration, it must be noted that Section 18 of the Land Acquisition Act provides for reference to the Civil Court in case the compensation awarded by the Land Acquisition Officer is not acceptable to the claimant and the law provides that if he accepts the amount of compensation under protest and prays for a reference to be made under Section 18 of the Act, the reference shall be made. Therefore, a civil suit for enhancement of compensation would not be maintainable in case the amount is not accepted by the party under protest and reference under Section 18 is not prayed for. It is also to be noted that the second proviso to sub-Section 2 of Section 31 of the Land Acquisition Act makes it clear that if a person had received the compensation without registering his protest, he would not be entitled to make an application under Section 18 of

the Act and the remedy provided by the statute would be barred. Needless to mention that the general remedy by recourse to the Civil Court is also barred.

5. On perusal of the order passed by the lower Court, it appears that the lower Court has misread the various rulings quoted by the Court. It is to be noted that the procedure under the Land Acquisition Act is an independent procedural code and all the issues regarding the payment of compensation for acquisition of the land would be governed thereunder and not by the remedy under the general law by the Civil Suit. In the present case, the respondent-plaintiff was issued with notice and in fact, he participated in the reference proceedings and accepted the compensation amount without registering any protest. Under the circumstances, the suit before the Civil Court under general law would not be maintainable.

6. In the result, the order passed by the lower Court dated 25th June, 2001 in Regular Civil Suit No.81/87/A holding that the suit is maintainable is set aside and the rule is made absolute in terms of prayer clause (a) and disposed of with no order as to costs, accordingly.

P.V. KAKADE, J.

ssm.